UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/782,178	02/12/2001	Alexander Gorelik	019024-001710US	2114

20350 7590 07/29/2004	EXAMINER
TOWNSEND AND TOWNSEND AND CREW, LLP	LIANG, GWEN

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

ART UNIT	PAPER NUMBER
2172	

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/782,178	GORELIK ET AL.
	Examiner	**Art Unit**
	GWEN LIANG	2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 May 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-6</u> is/are pending in the application.

    4a) Of the above claim(s) <u>6</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>12 February 2001</u> is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to communications regarding the applicant's

amendment, filed on 05/20/2004.

Drawings

2.   This application has been filed with informal drawings which are acceptable for

examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

4.   Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

      Claim 1 recites the limitation "the computer system" in line 4 of the claim. There

is insufficient antecedent basis for this limitation in the claim. The limitation " the

computer system " is not exactly found in any of the preceding features in the claim.

Claim Rejections - 35 USC § 101

5.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding independent claim 1, the claimed subject matter, "a database system", is not tangibly embodied in a computer-readable medium, and hence non-statutory.

Response to Arguments

6.   Applicant's amendment in response to the rejection of claim 1 under 35 U.S.C. 101 in the previous office action has been fully considered but the amendment does not overcome the 101 rejection as stated above in this office action. A database system not tangibly embodied in a computer-readable medium is non-statutory.

7.   Applicant's arguments with respect to claim 1 being rejected under 35 U.S.C. 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9.   Claims 1, 3, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hannel et al., "Hannel"(WO Publication No. 00/00879), and further in view of "Dynamo-Administration" (Dynamo Commerce Server Version 4.5 Administration Guide).

With respect to claim 1, Hannel discloses a database system comprising:

a first database (See for example: page 58 lines 19-23);

a second database, wherein the first database and second database include

substantially similar copies of each other outside of an update period (See for example:

page 58 lines 19-23);

a query router for routing queries from application to the live database (See for

example: page 58 lines 19-20, wherein the live database is used to do access checking,

wherein it is obvious that an application is being used for routing queries to the live

database for access checking); and

a router switcher for switching the database indicator such that the live database

becomes the load database and the load database becomes the live database (See for

example: page 58 lines 19-23),

wherein the update is performed on the load database before the update is

performed on the live database (See for example: page 59 lines 14-17, wherein the

mirror database is analogous to the load database, which is updated before the live

database).

However Hannel does not explicitly disclose a database indicator that indicates

one of the first and second databases as a live database and the other one of the first

and second databases as a load database;

Dynamo-Administration teaches a database indicator that indicates one of the

first and second databases as a live database and the other one of the first and second

databases as a load database (See for example: page 7 section "Using the Commerce

Staging Database" lines 1-3, "At any time Catalog1 or Catalog2 database can be

designated as the Live or Staging database. The Common database contains a pointer which indicates which Catalog is Live", wherein the Staging Database is analogous to the load database).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a database indicator as disclosed by Dynamo-Administration into the database system as disclosed in Hannel to indicate which database is live (See for example: page 7 section "Using the Commerce Staging Database" lines 2-3). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

Claim 3 is rejected for the reasons set forth hereinabove for claim 1 and furthermore Hannel discloses a database system comprising an update router for routing the update from an updater to the load database (See for example: page 59 lines 14-15).

Claim 5 is rejected for the reasons set forth hereinabove for claim 1 and furthermore Hannel discloses a database system comprising

an update cache that stores the update from the updater including logic to initiate update of the live database with the stored update when the live database becomes the load database (See for example: page 59 lines 14-17).

10.   Claims 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hannel et al., "Hannel"(WO Publication No. 00/00879), further in view of "Dynamo-Administration" (Dynamo Commerce Server Version 4.5 Administration Guide), and further in view of "Dynamo-Programmer" (Dynamo Commerce Server Version 4.5 Programmer's Guide).

Claim 2 is rejected for the reasons set forth hereinabove for claim 1. However the combination of Hannel and Dynamo-Administration does not explicitly disclose a database system wherein the queries from an application to the live database are in the form of SQL queries.

Dynamo-Programmer teaches a database system wherein the queries from an application to the live database are in the form of SQL queries (See for example: page 109, wherein the Commerce Server requires the use of SQL databases, wherein it is inherent queries from an application to the live database are in the form of SQL queries because the live database is one of the databases in the Commerce Server; page 112, Example SQL Query)

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the form of SQL queries as disclosed in Dynamo-Programmer to the queries from an application to the live database as disclosed in the combination of Hannel and Dynamo-Administration in order to conform to the query form requirement of Commerce Server (See for example: page 109 section "Introduction to Commerce Server Databases line 1). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

Claim 4 is rejected for the reasons set forth hereinabove for claim 3. However the combination of Hannel and Dynamo-Administration does not explicitly disclose a database system wherein the update from an updater to the load database is in the form of one or more SQL statements.

Dynamo-Programmer teaches a database system wherein the update from an updater to the load database is in the form of one or more SQL statements (See for example: page 109, wherein the Commerce Server requires the use of SQL databases, wherein it is inherent that the update from an updater to the load database is in the form of one or more SQL statements because the Staging database (analogous to the load database) is one of the databases in the Commerce Server; page 112, Example SQL Query).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the form of one or more SQL statements as disclosed in Dynamo-Programmer to the update from an updater to the load database as disclosed in the combination of Hannel and Dynamo-Administration in order to conform to the query form requirement of Commerce Server (See for example: page 109 section "Introduction to Commerce Server Databases line 1). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

Conclusion

11.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GWEN LIANG whose telephone number is 703-305-3985. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M. Monday and Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN BREENE can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

G.L.
19 July 2004

JEAN M. CORRIELUS
PRIMARY EXAMINER